

Applicant: Robert H. Osborn Jr.
Application Serial No.: 10/803,642
Filing Date: March 18, 2004
Docket No.: 577-596
Page 6

REMARKS

The application has been amended. Claim 1 has been amended and claim 2 has been canceled. Entry of this amendment and reconsideration is respectfully requested.

In the above referenced Office Action, the Examiner has issued a final rejection of the claims. It is respectfully submitted that the final rejection of the claims is improper and finality of the rejection should be removed.

The Examiner has finally rejected claims 1 and 3-8 under 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 5,929,383 to Marik et al.

In making this final rejection, the Examiner states that the Marik rejection is a new ground of rejection presented in the Office Action and that Applicant's amendment necessitated this new ground of rejection.

In the previous Office Action, the Examiner rejected independent claim 1 under 35 U.S.C. §103 as being unpatentable over Marik in view of a secondary reference. In response to this rejection, Applicant amended claim 1 to add an additional limitation. The Examiner has dropped the previous obviousness rejection of claim 1 and has substituted an anticipation rejection based solely on Marik, which was cited in the previous obviousness rejection.

Applicant: Robert H. Osborn Jr.
Application Serial No.: 10/803,642
Filing Date: March 18, 2004
Docket No.: 577-596
Page 7

Undersigned counsel submits that assuming, arguendo, the Examiner is correct in his assertion that the present claim 1 is anticipated by Marik, certainly the previous claim 1 which was broader and therefore included less limitations must have also been anticipated by the same Marik reference. As an example, if a claim containing elements A, B and C is anticipated by a reference, that reference must also anticipate a claim containing elements A and B alone. The Examiner failed to raise an anticipation rejection in the first Office Action against claim 1 notwithstanding the citation to Marik. Therefore, it cannot be seen how Applicant's amendment, which added a limitation to claim 1, could have necessitated the anticipation rejection. Accordingly, it is respectfully submitted that the finality of the present Office Action is inappropriate and withdrawal thereof is warranted.

Claim 1 currently stands rejected as being anticipated by Marik. Claim 1 is hereby amended to include the limitation of claim 2. Claim 2 is rejected under 35 U.S.C. §103 as being obvious in view of Marik. This determination is respectfully traversed.

In particular, claim 1 has been amended to specifically recite that the high-temperature resistant material forming the sealing ring comprises nylon 4/6. In citing the Marik reference as anticipating claim 1, the Examiner contends that Marik describes that the sealing ring may be formed of high-temperature resistant plastic material, citing to column 3, lines 48-52. The Examiner notes that Marik describes the use of nylon. However, as set forth in the present

Applicant: Robert H. Osborn Jr.
Application Serial No.: 10/803,642
Filing Date: March 18, 2004
Docket No.: 577-596
Page 8

specification, all grades of nylon are not high-temperature resistant. The nylon which is typically used for elastomeric sealing rings of the type found in the prior art, is nylon 6/6. This grade of nylon does not exhibit the high-temperature resistance as does nylon 4/6 which is disclosed and claimed in the present invention.

The Examiner's attention is called to the specification of the present application where at paragraph 0019, the different characteristics between nylon 6/6 and nylon 4/6 are described. Therefore, as claim 1 of the present invention specifically recites that the sealing ring is formed of nylon 4/6 and as Marik is silent as to the type of nylon employed, Marik cannot be anticipatory of the present invention.

Furthermore, Marik fails to disclose or suggest the use of any specific grade of nylon let alone nylon 4/6. The only purpose of the particular plastic in the Marik reference is to serve as an electrical insulator and seal. High-temperature resistance is not a concern. Accordingly, there is no suggestion in Marik to employ a grade of nylon which would provide such high-temperature resistance in a manner similar to the nylon 4/6 disclosed and claimed in the present invention. Failing to disclose, teach or suggest a particular grade of nylon set forth in the present claim, it is respectfully submitted that claim 1 and the claims which depend therefrom are patentably distinct over Marik.

Applicant: Robert H. Osborn Jr.
Application Serial No.: 10/803,642
Filing Date: March 18, 2004
Docket No.: 577-596
Page 9

Moreover, contrary to the Examiner's assertion, it would not have been generally within the skill of the user to employ the specific grade of nylon claimed. In Marik, the only purpose for the sealing ring is for sealing purposes. There was no contemplation of high-temperature resistance. Therefore, it would not be obvious to make the substitution.

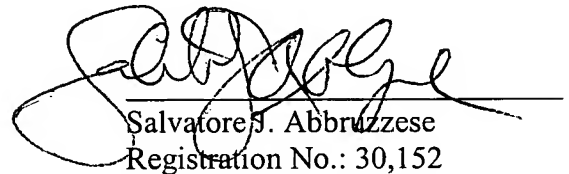
In summary, it is respectfully submitted that the finality of the present Office Action should be withdrawn and that the application including claims 1 and 3-11 are in condition for allowance. Favorable action thereon is respectfully solicited.

The Commissioner is hereby authorized to charge payment of any additional fees associated with this communication, or credit any overpayment, to Deposit Account No. 08-2461. Such authorization includes authorization to charge fees for extensions of time, if any, under 37 C.F.R. § 1.17 and also should be treated as a constructive petition for an extension of time in this reply or any future reply pursuant to 37 C.F.R. § 1.136.

Applicant: Robert H. Osborn Jr.
Application Serial No.: 10/803,642
Filing Date: March 18, 2004
Docket No.: 577-596
Page 10

Should the Examiner have any questions or comments concerning the above, the Examiner is respectfully invited to contact the undersigned attorney at the telephone number given below.

Respectfully submitted,



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